



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 90**

**[PS Docket No. 13-209, RM-11663; FCC 13-117]**

Emission Mask Requirements for Digital Technologies on 800 MHz NPSPAC Channels; Analog FM Capability on Mutual Aid and Interoperability Channels

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document seeks comment on proposals to amend the Commission's rules to promote spectrum efficiency, interoperability, and restrict interference in public safety operations in the (806-809/851-854 MHz, 150-170 MHz and 450-470 MHz bands). By this action, the Commission affords interested parties an opportunity to submit comments on these proposed rule changes.

**DATES:** Comments are due on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments are due on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESS:** You may submit comments, identified by PS Docket No. 13-209, by any of the following methods:

- Federal Communications Commission's web site: <http://fjallfoss.fcc.gov/ecfs2/> (or <http://www.fcc.gov/cgb/ecfs>). Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** John A. Evanoff, Esq., Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418-0848.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 13-117, adopted August 23, 2013 and released on August 27, 2013. The document is available for download at [http://fjallfoss.fcc.gov/edocs\\_public/](http://fjallfoss.fcc.gov/edocs_public/). The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

1. In the Notice of Proposed Rulemaking (NPRM) in PS Docket No. 13-209, the Commission initiates a new proceeding in response to a Petition for Rulemaking filed by Harris Corporation (Harris). The NPRM proposes to require digital technologies, including but not limited to Terrestrial Trunked Radio (TETRA) based technologies, to comply with Emission Mask H when operated in the 800 MHz National Public Safety Planning Advisory Committee (NPSPAC) band (806-809/851-854 MHz). The NPRM also proposes to require equipment to have analog FM capability when operating on 800 MHz NPSPAC, VHF (150-170 MHz), and UHF (450-470 MHz) public safety mutual aid and interoperability channels. These proposals could help safeguard public safety licensees in the NPSPAC band from adjacent-channel interference and preserve interoperability in the NPSPAC, VHF and UHF bands.

2. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings related to the NPRM should refer to **PS Docket No. 13-209**. Comments may be filed using: (1) the Commission's Electronic Comment Filing System

(ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> (or <http://www.fcc.gov/cgb/ecfs>). Filers should follow the instructions provided on the website for submitting comments.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

3. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

4. Interested parties may view documents filed in this proceeding on the Commission's Electronic Comment Filing System (ECFS) using the following steps: (1) Access ECFS at <http://www.fcc.gov/cgb/ecfs>. (2) In the introductory screen, click on "Search for Filed Comments." (3) In the "Proceeding" box, enter the numerals in the docket number. (4) Click on

the box marked "Retrieve Document List." A link to each document is provided in the document list. The public may inspect and copy filings and comments during regular business hours at the FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. The public may also purchase filings and comments from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160, or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). The public may also download this NPRM from the Commission's web site at <http://www.fcc.gov/>.

5. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

6. Commenters who file information that they believe should be withheld from public inspection may request confidential treatment pursuant to § 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order, 63 FR 44161, August 18, 1998, Order on Reconsideration, 64 FR 55161, October 12, 1999. Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. See 47 CFR 0.461; 5 U.S.C. 552. We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

7. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any

written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

**A. Initial Paperwork Reduction Act of 1995 Analysis:**

8. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

**B. Initial Regulatory Flexibility Act of 1980 Analysis**

9. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be filed by the same dates as listed on the first page of the NPRM and must have a separate and distinct heading designating them as responses to this IRFA. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

**C. Need for, and Objectives of, the Proposed Rules**

10. In the NPRM, the Commission seeks comment on proposals to amend the Commission's rules governing public safety spectrum at 806-809/851-854 MHz, VHF and UHF. The NPRM is intended to determine whether it is in the public interest, convenience and necessity to amend the Part 90 rules for emission masks and interoperability in order to prevent interference and promote interoperable public safety communications.

**D. Legal Basis**

11. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 2, 4(i), 301, 303, 307, 309, 319, 324, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 301, 303, 307, 309, 319, 324, and 332.

**E. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply**

12. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small

Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

13. Private Land Mobile Radio Licensees. PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as defined by the SBA, we use the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. We note that PLMR licensees generally use the licensed facilities in support of other business activities, and therefore, it would also be helpful to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

14. As of November 1, 2012, there were 1,185 PLMR licensees operating in the PLMR band between 806-809/851-854 MHz (NPSPAC band) and 686 PLMR licensees operating on the VHF and UHF public safety interoperability channels. We note that any entity engaged in a commercial activity is eligible to hold a PLMR license, and that any revised rules in this context could therefore potentially impact small entities covering a great variety of industries.

15. RF Equipment Manufacturers. The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television

studio and broadcasting equipment.” The SBA small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing is all such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for the entire year. Of this total, 912 had employment of under 500, and an additional 10 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

**F. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

16. The NPRM proposes two rule changes that will affect reporting, recordkeeping and other compliance requirements. The NPRM proposes requiring digital technologies, including, but not limited to TETRA-based technologies, to (a) comply with Emission Mask H when operated on 800 MHz NPSPAC channels and (b) have analog FM capability on public safety mutual aid and interoperability frequencies. These digital technologies are spectrum-efficient, but have characteristics that differ from those in use when the Emission Mask rules were adopted and, hence, have a greater likelihood of causing adjacent-channel interference than the earlier technologies. Industry practice recognizes that (1) digitally-modulated signals must be certified under the H-Mask for use in public safety spectrum and (2) radios intended for use on mutual aid and interoperability channels must be capable of analog FM operation. We expect that large and small manufacturers already comply with these proposed regulations. However, to the extent some manufacturers do not already comply with these proposed regulations and industry standards, we expect that such manufacturers would refrain from marketing their equipment to public safety entities as being in compliance with the Commission’s rules and ensure that their equipment performs consistent with these proposed regulations designed to prevent interference and preserve interoperability.



**G. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

17. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof for small entities.

18. We have evaluated our proposals in this NPRM in the context of small business entities and find no alternatives, to the benefit of small entities that would achieve our goals of interference avoidance and interoperability. Additionally, this NPRM proposes rules that are consistent with industry practice. Accordingly, we expect most manufacturers already comply with our proposed regulations, therefore minimizing any significant economic impact on small entities.

19. We hereby invite interested parties to address any or all of these regulatory alternatives and to suggest additional alternatives to minimize any significant economic impact on small entities. Any significant alternative presented in the comments will be considered.

**H. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

20. None.

**ORDERING CLAUSES**

21. Accordingly, **IT IS ORDERED** that, pursuant to sections 1, 4(i), 303, 316, 332 and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, 316, 332 and 337, the NPRM **IS HEREBY ADOPTED**.

22. **IT IS FURTHER ORDERED** that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file

comments on the NPRM on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,  
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 90 as follows:

## **PART 90 – PRIVATE LAND MOBILE RADIO SERVICES**

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

2. Section 90.203 is amended by revising paragraphs (i) and (j)(1) to read as follows:

### **§ 90.203 Certification Required.**

\* \* \* \* \*

(i) Equipment certificated after DATE and marketed for public safety operation in the 806–809/851–854 MHz bands must have the capability to be programmed for analog FM operation on the mutual aid channels as designated in § 90.617(a)(1) of the rules.

(j) \* \* \*

(1) Applications for certification received on or after DATE, for mobile and portable transmitters designed to transmit voice on public safety frequencies in the 150–174 MHz band will be granted only if the mobile/portable equipment is capable of operating in the analog FM mode on the nationwide public safety interoperability calling channel in the 150–174 MHz band. (See § 90.20(c) and (d) of this part.) Applications for certification received on or after DATE, for mobile and portable transmitters designed to transmit voice on public safety frequencies in the 450–470 MHz band will be granted only if the mobile/portable equipment is capable of operating in the analog FM mode on the nationwide public safety interoperability calling channel in the 450–470 MHz band. (See § 90.20(c) and (d) of this part.)

\* \* \* \* \*

3. Section 90.210 is amended in the table by adding footnote 6 to the entry for “806-809/851-854” to read as follows:

**§ 90.210 Emission Masks.**

**Applicable Emission Masks**

<b>Frequency band (MHz)</b>	<b>Mask for equipment with audio low pass filter</b>	<b>Mask for equipment without audio low pass filter</b>
* * *	* *	* *
806-809/851-854 <sup>6</sup>	B	H
* * *	* *	* *

\* \* \* \* \*

<sup>6</sup> Transmitters utilizing analog emissions that are equipped with an audio low-pass filter must meet Emission Mask B. All transmitters utilizing digital emissions and those transmitters using analog emissions without an audio low-pass filter must meet emission mask H.

[FR Doc. 2013-23645 Filed 09/27/2013 at 8:45 am; Publication Date: 09/30/2013]